

Hearing Date: May 21, 2019 at 10:00 a.m.
Objection Deadline: May 14, 2019 at 4:00 p.m.

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)
SEARS HOLDINGS CORPORATION, *et al.*,) Chapter 11
Debtors.) Case No. 18-23538 (RDD)
) (Jointly Administered)
)

**APPLICATION OF COMMONWEALTH EDISON COMPANY
PURSUANT TO SECTION 7 OF THE ORDER (I) APPROVING
DEBTORS' PROPOSED FORM OF ADEQUATE ASSURANCE OF PAYMENT
TO UTILITY PROVIDERS, (H) ESTABLISHING PROCEDURES FOR
DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE
UTILITY SERVICES, AND (HI) PROHIBITING UTILITY PROVIDERS FROM
ALTERING, REFUSING, OR DISCONTINUING UTILITY SERVICE [DOCKET
NO. 461] FOR PAYMENT FROM THE ADEQUATE ASSURANCE ACCOUNT**

Commonwealth Edison Company (“ComEd”), by counsel, for its Application pursuant to Section 7 of the *Order (I) Approving Debtors’ Proposed Form Of Adequate Assurance of Payment To Utility Providers, (II) Establishing Procedures For Determining Adequate Assurance of Payment For Future Utility Services, and (III) Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Utility Service* [Docket No. 461] (the “Utility Order”), states as follows:

Jurisdiction and Venue

1. This Court has jurisdiction over this Motion under 28 U.S.C. § 1334(b) and 11 U.S.C. § 366(c).
2. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A).
3. Venue of this Motion is proper in this district pursuant to 28 U.S.C. § 1409.

Procedural Facts

4. On October 15, 2018 (the “Petition Date”), the Debtors commenced their cases under Chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) that are now pending with this Court. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108.

5. The Debtors’ chapter 11 bankruptcy cases are being jointly administered.

6. On October 18, 2018, the Debtors filed the *Motion of Debtors Requesting Entry of an Order (I) Approving Debtors’ Proposed Form of Adequate Assurance of Payment To Utility Providers, (II) Establishing Procedures For Determining Adequate Assurance of Payment For Future Utility Services, and (III) Prohibiting Utility Providers From Altering, Refusing, or Discontinuing Utility Service* (the “Utility Motion”) (Docket No. 196).

7. On November 5, 2018, the Court entered the Utility Order approving the Utility Motion.

8. According to Exhibit 1 to Exhibit 2 to the Utility Order (Pages 51 through 52), the Debtors placed \$139,946 into the Adequate Assurance Account for ComEd.

9. Section 7 of the Utility Order provides:

If the Debtors fail to pay a utility bill when due (including the passage of any cure period), the relevant Utility Provider shall provide notice of such default to the Debtors, and if within five (5) business days of such notice the bill is not paid, the Utility Provider may file an application with the Court certifying that payment has not been made and requesting the amount due up to an aggregate maximum equal to the Adequate Assurance Deposit allocable to such Utility Provider.

Default Notice Issued By ComEd

10. On March 28, 2019, ComEd, by counsel, issued a default notice to the Debtors pursuant to Section 7 of the Utility Order for the following invoices that remain unpaid:

- a. \$25,544.65 invoice on the account ending in 1062 that was due on March 7, 2019;
- b. \$167.84 invoice on the account ending in 1035 that was due on March 11, 2019; and
- c. \$5,518.60 invoice on the account ending in 3001 that was due on March 28, 2019.

11. The Debtors subsequently tendered a payment of \$12,827.66 toward the balance owed on the account ending in 1062, leaving an unpaid balance of \$11,277.64.

12. On January 2, 2019, there was an unpaid balance of \$24,105 on the account ending in 2004 when that account finalized, and that balance was transferred to the account ending in 1062 (both accounts have the same customer tax identification number) on January 23,

2019. A payment of \$12,827.66 was paid on the account ending in 2004 on March 28, 2019, and that payment was transferred to the account ending in 1062 on March 28, 2019, leaving a past-due balance of \$11,277.64.

13. As of the filing date of this Application, the past-due charges that the Debtors owe to ComEd total \$11,445.48 (\$11,277.64 remaining past-due balance on the account ending in 1062 and the \$167.84 past-due balance on the account ending in 1035).

14. Attached as Exhibit 1 to this Application is the Declaration of Carlandra Edwards stating that the amounts due have not been paid as of the date of her Declaration.

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WHEREFORE, ComEd respectfully requests that this Court enter an order:

- A. Requiring the Debtors to immediately tender payment to ComEd in the amount of \$11,445.48 from the Adequate Assurance Account for the past due post-petition amount listed in paragraph 13 of this Application; and
- B. Providing such other and further relief as the Court deems just and appropriate.

Dated: Garden City, New York
April 30, 2019

MEYER, SUOZZI, ENGLISH & KLEIN, P.C.

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